CLAIM AMENDMENTS

1. *(Currently amended)* A method of killing a mammalian cell that expresses telomerase reverse transcriptase (TERT), comprising contacting the cell with a polynucleotide in which a promoter ~~sequence~~ controls transcription of a transcribable sequence ~~that~~ , the expression of which is toxic to the cell ~~or renders the cell more susceptible to toxicity of a drug~~;

wherein the promoter ~~has the property of causing the transcribable sequence to be expressed in cells endogenously expressing TERT, and~~ contains a nucleotide sequence ~~that is~~ that is at least 90% identical to the sequence from position –117 to position –36 from the translation initiation site (position 13545) of SEQ. ID NO:1 ;

and wherein the promoter causes the transcribable sequence to be expressed in cells endogenously expressing TERT.

2. *(Currently amended)* A method of killing a mammalian cell that expresses telomerase reverse transcriptase (TERT), comprising contacting the cell with a polynucleotide in which a promoter ~~sequence~~ controls transcription of a transcribable sequence ~~that~~ , the expression of which is toxic to the cell ~~or renders the cell more susceptible to toxicity of a drug~~;

wherein the promoter
~~has the property of causing the transcribable sequence to be expressed in cells endogenously expressing TERT, and~~
is either

a) contained in the APAI-FSPI fragment just upstream of the encoding sequence for human ~~telomerase reverse transcriptase (hTERT)~~ TERT in lambda phage GΦ5 deposited as ATCC Accession No. 98505; or

b) comprises a nucleotide sequence that hybridizes to DNA complementary to said APAI-FSPI fragment at 5 to 10°C below T_m in aqueous solution at 1 M NaCl followed by wash in 0.2 × SSC, wherein T_m is the melting temperature of the APAI-FSPI fragment in double-stranded form ;

and wherein the promoter causes the transcribable sequence to be expressed in cells endogenously expressing TERT.

3. *(Currently amended)* The method of claim 2, ~~which~~ wherein said promoter hybridizes to lambda phage GΦ5 at 5°C below T_m in aqueous solution at 1 M NaCl.

4. *(Original)* The method of claim 2, wherein the promoter contains a nucleotide sequence that is at least 80% identical to the sequence from position –239 to position –36 from the translation initiation site of SEQ. ID NO:1.

5. *(Original)* The method of claim 1, wherein the promoter contains a nucleotide sequence that is at least 95% identical to the sequence from position –117 to position –36 from the translation initiation site of SEQ. ID NO:1.

6. *(Currently amended)* The method of claim 1, wherein the promoter contains the sequence from ~~position –117~~ position –239 to position –36 from the translation initiation site of SEQ. ID NO:1.

7. *(Original)* The method of claim 1, wherein the promoter contains the sequence from position –117 to position –36 from the translation initiation site of SEQ. ID NO:1.

8. *(Original)* The method of claim 1, wherein the promoter is between about 400 to 900 nucleotides in length.

9. *(Original)* The method of claim 1, wherein the promoter is between about 200 to 400 nucleotides in length.

10. *(Original)* The method of claim 1, wherein the promoter is between about 100 to 200 nucleotides in length.

11. *(Currently amended)* The method of claim 1, wherein the transcribable sequence encodes a protein selected from ~~the group consisting of~~ ricin, diphtheria toxin, other polypeptide toxins, ~~thymidine kinase, and an enzyme that induces~~ and enzymes that induce apoptosis.

12. *CANCELLED*

13. *(Original)* The method of claim 1, wherein the polynucleotide is an adenovirus vector.

14. *(Original)* The method of claim 1, wherein the cell is a cancer cell.

15. *(Currently amended)* A method of treating cancer in a subject, comprising contacting cancer cells in the subject that express TERT with a polynucleotide in which a promoter ~~sequence~~ controls transcription of a transcribable sequence ~~that~~ , the expression of which is toxic to the cell ~~or renders the cell more susceptible to toxicity of a drug~~;

wherein the promoter ~~has the property of causing the transcribable sequence to be expressed in cells endogenously expressing TERT, and~~ contains a nucleotide sequence ~~that is~~ that is at least 90% identical to the sequence from position –117 to position –36 from the translation initiation site (position 13545) of SEQ. ID NO:1 ;

and wherein the promoter causes the transcribable sequence to be expressed in cells endogenously expressing TERT.

16. *(Currently amended)* A method of expressing a transcribable nucleotide sequence in a mammalian cell expressing TERT, comprising contacting the cell with a polynucleotide in which the transcribable nucleotide sequence is operably linked to a promoter ~~sequence so as to cause it to be transcribed when the polynucleotide is in cells endogenously expressing human telomerase reverse transcriptase (hTERT);~~

wherein the promoter ~~has the property of causing the transcribable sequence to be expressed in cells endogenously expressing TERT, and~~ contains a nucleotide sequence ~~that is~~ that is at least 90% identical to the sequence from position –117 to position –36 from the translation initiation site (position 13545) of SEQ. ID NO:1 ;

and wherein the promoter causes the transcribable sequence to be expressed in cells endogenously expressing TERT.

17. *CANCELLED*

18. *(Currently amended)* A polynucleotide in which a promoter is operably linked to a heterologous sequence ~~so as to cause the heterologous sequence to be transcribed when the polynucleotide is in cells endogenously expressing human telomerase reverse transcriptase (hTERT)~~;

wherein the promoter is either

a) contained in the APAI-FSPI fragment just upstream of the encoding sequence for ~~human telomerase reverse transcriptase (hTERT)~~ human TERT in lambda phage GΦ5 deposited as ATCC Accession No. 98505; or

b) comprises a nucleotide sequence that hybridizes to DNA complementary to said APAI-FSPI fragment at 5 to 10°C below T_m in aqueous solution at 1 M NaCl followed by wash in 0.2 × SSC, wherein T_m is the melting temperature of the APAI-FSPI fragment in double-stranded form ;

and wherein the promoter causes the heterologous sequence to be expressed in cells endogenously expressing TERT.

19. *(Original)* The polynucleotide of claim 18, which hybridizes to lambda phage GΦ5 at 5°C below T_m in aqueous solution at 1 M NaCl.

20. *(Original)* The polynucleotide of claim 18, wherein the promoter contains a nucleotide sequence that is at least 80% identical to the sequence from position –239 to position –36 from the translation initiation site of SEQ. ID NO:1.

21. *(New)* The method of claim 16, wherein the promoter contains the sequence from position –117 to position –36 from the translation initiation site of SEQ. ID NO:1.

22. *(New)* The method of claim 16, wherein expression of the transcribable nucleotide sequence renders the cell more susceptible to toxicity of a drug.

23. *(New)* The method of claim 22, wherein the transcribable nucleotide sequence is thymidine kinase.

24. *(New)* The method of claim 22, wherein the drug is ganciclovir.

25. *(New)* A method of killing a mammalian cell that expresses TERT, comprising rendering a mammalian cell that expresses telomerase reverse transcriptase (TERT) more susceptible to toxicity of a drug according to the method of claim 22, and then contacting the cell with said drug.

26. *(New)* A method of killing a mammalian cell that expresses TERT and that has been rendered more susceptible to toxicity of a drug according to the method of claim 22, comprising contacting the cell with said drug.

27. *(New)* The method of claim 26, wherein the promoter contains a nucleotide sequence that is at least 80% identical to the sequence from position –239 to position –36 from the translation initiation site of SEQ. ID NO:1.

28. *(New)* The method of claim 26, wherein the promoter contains the sequence from position –117 to position –36 from the translation initiation site of SEQ. ID NO:1.

29. *(New)* The method of claim 26, wherein the cell is a cancer cell.

30. *(New)* A method of treating cancer in a subject, comprising rendering cancer cells in the subject more susceptible to toxicity of a drug according to the method of claim 22, and then contacting the cells with said drug.

31. *(New)* A method of rendering a mammalian cell that expresses TERT more susceptible to toxicity of a drug, comprising contacting the cell with a polynucleotide in which a promoter controls transcription of a sequence that encodes thymidine kinase;

wherein the promoter contains a nucleotide sequence that is at least 90% identical to the sequence from position –117 to position –36 from the translation initiation site (position 13545) of SEQ. ID NO:1;

and wherein the promoter causes the transcribable sequence to be expressed in cells endogenously expressing TERT.

32. *(New)* A method of treating cancer in a subject, comprising rendering cancer cells in the subject more susceptible to toxicity of a drug according to the method of claim 31, and then administering ganciclovir to the subject.